

STATUS OF CLAIMS

Claims 1 - 23 are pending.

Claims 1 - 23 stand rejected by the Examiner.

REMARKS

Reconsideration of the present Application is respectfully requested.

Rejections based on 35 U.S.C. § 103 (a)

Claims 1-10 and 15-23 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Vange et al. (U.S. Patent No. 6,050,898) in view of Rautila (U.S. Patent No. 6,524,189 B1).

Claims 11-14 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Vange et al. (U.S. Patent No. 6,050,898) and Rautila (U.S. Patent No. 6,524,189 B1) as applied to Claim 1, and in further view of Finn (U.S. Patent Application No. 2002/0052239 A1). Applicant respectfully traverses the rejection of these claims for at least the following reasons.

35 U.S.C. 103(a) sets forth in part:

[a] patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine

reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Regarding independent Claim 1, Examiner asserts that Vange et al. discloses a method for providing interactive communications services to multiple players using a corresponding plurality of game clients via a telecommunication network that may degrade performance of said communications services by requesting state information from each game client, receiving this information, and detecting differences in the information between each game client. On the contrary, Vange et al. describes a server which monitors “the available bandwidth of the connection between game server 200 and each respective game client 18” (Col. 7, lines 7-8). Further, the information received from a particular game client is used to develop a set of metrics in order to maximize the communications bandwidth between the server and that particular game client. Then, initial bandwidth is either increased or decreased according to a comparison of maximum bandwidth and initial bandwidth between the server and that particular game client. Thus, while Vange et al. describes a method for monitoring and adjusting performance between the server and each game client respectively, Vange et al. does teach, or even suggest for that matter, any comparison of state information *as between* two or more game clients. This is plainly distinct from the language of Claim 1, which involves “detecting differences between said at least two communication devices”, and “smoothing said communication services... if differences detected exceed a given threshold”.

Applicant also agrees with the Examiner that Vange et al. fails to expressly disclose that the telecommunication network is a wireless network. In fact, there is a complete absence of even an inference of the network being a wireless network. Accordingly, Applicant respectfully submits that Vange et al. fails to teach, or even suggest for that matter, each of the elements of Claim 1.

Similarly, both Rautila and Finn fail to teach, or even suggest, each of the elements of Claim 1, in particular, the smoothing of communications services when detecting differences in state information between at least two communications devices. Rautila describes a multi-player game system using mobile telephones and game units (col. 3, lines 38-39), while Finn describes a system and method utilizing impulse radio technology that allows game users to communicate with either other users or a host system (page 1, paragraph 2). Neither of these references teach, nor even suggest, any sort of communications device performance calibration function, which is based upon detected differences between at least two communications devices, at all.

Thus, Applicant respectfully submits that each of the cited references, either separately or in combination, do not teach, or even suggest for that matter, each of the limitations of independent Claim 1. Applicant further submits that Claims 2-23 are similarly distinguishable over the prior art of record, at least by virtue of their ultimate dependency from patentably distinct base Claim 1.

CONCLUSION

Wherefore, Applicant believes he has addressed all outstanding grounds raised by the Examiner and respectfully submits the present case is in condition for allowance, early notification of which is earnestly solicited. Should there be any questions or outstanding matters, the Examiner is cordially invited and requested to contact Applicant's undersigned attorney at his number listed below.

Respectfully submitted,

Date: October 29, 2004

A handwritten signature in dark ink, appearing to read 'Thomas J. McWilliams', is written over a horizontal line.

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